



# Virginia State Conference NAACP

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John B. Alcorn, Esq., Chair  
Clara Belle Wheeler, Vice Chair  
Singleton B. McAllister, Esq., Secretary  
Edgardo Cortés, Commissioner  
Virginia Board of Elections - Washington Building  
1100 Bank Street, First Floor  
Richmond, VA 23219

Dear Mr. Alcorn, Ms. Wheeler, Ms. McAllister and Mr. Cortés:

Thank you for your work uncovering then documenting problems in the 28<sup>th</sup> and 88<sup>th</sup> House Districts. We now know there were at least 384 registered voters who were impacted by erroneous House District assignments including 147 instances of Cross-District voting in the November 7, 2017 Election. At the Virginia State Conference NAACP, we feel every single incident represents the disenfranchisement of voters.

It is astounding such grievous errors were made by public officials in both the City of Fredericksburg and Stafford County. The conclusions to be drawn are simple:

- 147 voters who cast ballots for candidates not in their House District skewed the vote counts in the 28<sup>th</sup> and 88<sup>th</sup> House Districts, and these errors make it impossible to deduce reliable, correct vote totals in this election
- 384 registered voters who were denied the right to vote for their candidate to represent them in the General Assembly suffered disenfranchisement in the election process

It is now indisputable that hundreds of registered voters were disenfranchised by VERIS list errors.

We also now know from declarations filed by voters in the *Lecky* case that on election day voters were actually impeded by Virginia election officials from voting in their own House Districts. Upon realizing they had wrong ballots, some voters complained to their proper Registrar's office and Board of Electors. Some were told to vote the ballot they were provided. In one case, even when pointing out the mistake on the House District maps on the wall of a precinct, the response of Members of the local Board of Electors was to *remove the maps from the walls of the precinct* thereby preventing other voters from checking whether their ballots were correct.

It is very difficult to imagine much stronger examples of manifest voter disenfranchisement.

In this letter, Virginia State Conference NAACP formally request that you stand with the disenfranchised voters in *Lecky, et al. v Virginia State Board of Elections, et al.* (Case no. 1:17-CV-01336) who petitioned the Court to intervene on their behalf by affirmatively urging the Court to order a Special Election in the 28<sup>th</sup> and 88<sup>th</sup> House District Delegate elections. Given the totality of this situation, such is the only option.

## **An Election Contest Might Jeopardize the Integrity of the Entire Election Process**

We fully understand there is a detailed statutory process for contesting elections (Va. Code §24.2-803). That process gives an unsuccessful candidate a chance to contest the election, leaving it up to the General

Assembly to decide whether a Special Election will occur. As everyone knows, such a process will likely devolve into messy business in the General Assembly, fraught with inevitable partisanship and political minefields. Such a process would not at all resolve the immediate issue of the disenfranchisement of hundreds of registered voters in Virginia.

As a non-partisan organization, the issue for the Virginia State Conference NAACP is not at all about which candidates win, but rather that the right to vote for a House of Delegates representative is accorded to every voter and any voter disenfranchisement in the 2017 Election is addressed in an environment of openness, fairness and integrity. The people's interest in pursuing open, free and fair elections through the judicial system outweighs any politician's or particular party's interest in conducting an Election Contest in the General Assembly.

Whether the two races would turn out differently for opposing candidates is not the question. The real question is what damage an Election Contest would do to the integrity of the election system. We all should keep in mind many other states and U.S. citizens eagerly await the outcome of Virginia's 2017 elections.

Unless a truly fair election is held, there will be doubt whether the Delegates of the 28<sup>th</sup> and 88<sup>th</sup> House Districts serving in the Virginia General Assembly actually deserve to be seated there at all. And most importantly, voters will always doubt whether the election process was conducted fairly, with due respect for the rights of the people to have open, free and fair elections.

#### **An Alternative**

The court has both the power and authority to order a Special Election.

We implore you to do the right thing by asking Federal Judge Ellis in the pending Lesky case to order a Special Election to be held once the erroneous District assignments are corrected. We believe such is the only way for voters to retain their faith in the election process and an impartial Virginia Board of Elections.

With the mound of empirical evidence that you uncovered, it makes little sense to put Virginians through the divisive political process of an Election Contest, especially when there is an open lawsuit in the U.S. District Court of the Eastern District of Virginia filed by voters (not candidates). Craftily, Judge Ellis intentionally kept the lawsuit open so that the Petitioner-Voters could return to Court to seek a Special Election. Although a political party decided to intervene in the lawsuit to oppose efforts of Petitioner-Voters, the clear and indisputable disenfranchisement of voters is not about any one candidate, any two candidates, or any political party; *it is about voters and the integrity of all elections in Virginia.*

We believe it is in the best interest of all Virginia voters, and especially those in the 28<sup>th</sup> and 88<sup>th</sup> House Districts, that the SBE joins the petitioners in asking Judge Ellis in the Federal lawsuit to order a Special Election for the sake of the many voters who were denied the right to vote for their own representatives in the General Assembly and who had their vote diluted by the ineligible votes of others.

Thank you all for considering our request.

Sincerely,

**Rev. Kevin L. Chandler**, President  
Virginia State Conference NAACP

**Charlyne Jackson-Fields**, President  
Fredericksburg Branch NAACP

**Metria Singleton**, President  
Stafford County Branch NAACP

